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09/811,239	03/16/2001	Kenneth Hsu	069116.0159	8261
5073	7590	05/23/2008	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			NGUYEN, STEVEN H D	
			ART UNIT	PAPER NUMBER
			2619	
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			05/23/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 09/811,239	Applicant(s) HSU ET AL.	
	Examiner STEVEN H.D NGUYEN	Art Unit 2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-17, 19-24 is/are rejected.
- 7) ☒ Claim(s) 6, 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 13-24 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As claims 13-24, line 1, the specification does not disclose a computer readable medium.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 13-24 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter such as a computer readable medium for including the code to perform the function. However, the computer readable medium read on the carrier wave or signal which is conveyed via a medium.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1, 3-5, 8-9, 13, 15-17 and 20-21 rejected under 35 U.S.C. 102(a) as being anticipated by Hsu (IETF).

As claims 1 and 13, Hsu teaches a method for circuit emulation over a multi-packet label switching (MPLS) network, comprising receiving a time division multiplexed data stream at an ingress end; dividing said data stream into a set of fixed, sized packets; adding a service header to each of said packets; adding an additional header on top of said service header in accordance with MPLS protocols; removing said additional header after each packet has been processed by said MPLS network; and using said service header to recover said data stream at an egress end (Sec 3 and Sec 6); a structure pointer in said service header to indicate whether a header byte in a synchronous payload envelope is present within a packet, said structure pointer indicating the location of said header byte in said packet (Sec 6 and Fig 1).

As claims 3 and 15, Hsu discloses negative justification bit and a positive justification bit in said service header to indicate whether said synchronous payload envelope includes a negative stuff byte or a positive stuff byte (Sec 6 and figure 1).

As claims 4 and 16, Hsu teaches reserving a pointer value indicating that said header byte is not present within said packet (Sec 6 and Figure 1).

As claims 5 and 17, Hsu teaches recording a stuffing time difference in a service header at said ingress end; and implementing said stuffing time difference at said egress end (Sec 7).

As claims 8 and 20, Hsu teaches checking a sequence counter in said service header of each packet in said set of packets to determine if all packets are present sequentially; and inserting a dummy packet if a packet is missing in said set of packets (Sec 7.1).

As claims 9 and 21, Hsu teaches receiving an out of sequence packet; and discarding said out of sequence packet (Sec 7.1).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 4, 7-13, 16 and 19-24 rejected under 35 U.S.C. 103(a) as being unpatentable over Boyle (US 6831932).

As claims 1 and 13, Boyle teaches a method for circuit emulation over a multi-packet label switching (MPLS) network, comprising receiving a time division multiplexed data stream at an ingress end (Fig. 2, Ref 202); dividing said data stream into a set of fixed, sized packets (Fig 3A, Ref 304); adding a service header to each of said packets (Fig 3B, Ref 314, RTP header, col. 8, Table 2); adding an additional header on top of said service header in accordance with MPLS protocols (Fig 3B, Ref 314, col. 9, lines 10-30, MPLS label); removing said additional header after each packet has been processed by said MPLS network (Fig 2, Ref 202, removes MPLS label); and using said service header to recover said data stream at an egress end (Fig 2, Ref 202 use RTP header to assemble the SONET signal and Header includes a marker used to

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indicate the first spe). However, the use of a structure pointer in said service header to indicate whether a header byte in a synchronous payload envelope is present within a packet, said structure pointer indicating the location of said header byte in said packet and a pointer to indicate the start of packet is not in the payload are well known and expected in the art for example, Sonet, SDH use a pointer in the overhead to indicate the start byte of SPE; ATM uses a pointer to indicate a start byte of a new mini packet, Physical frame uses a pointer to indicate a start byte of a new mini packet and pointer which indicates the packet only contain the remain of the packet.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply a method and system for inserting a pointer to indicate a start byte of the SPE in the payload and without start byte of SPE in the packet into the teaching of Boyle. The motivation would have been to reassemble the packets into a native packet.

As claims 7 and 19, Boyle discloses checking a sequence counter in said service header of each packet in said set of packets; locating at least one header byte in said set of packets; measuring all bytes between two header bytes; and pushing said set of packets into a frame (Fig 2, Ref 202 uses sequence number for assembling the frame from the packets by removing the header bytes).

As claims 8-9 and 20-21, Boyle fails to disclose the claimed invention. However, the examiner takes an official notice that a method and system for inserting a dummy packet if a packet is missing in said set of packets; receiving an out of sequence packet; and discarding said out of sequence packet is well known and expected in the art at the time of invention was made.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply this method into Boyle in order to assemble the frame.

As claims 10-12 and 22-24, Boyle implicitly discloses checking a sequence counter in said service header of each packet in said set of packets to determine if all packets are present sequentially; terminating a current connection if multiple packets are missing in said set of packets; discarding said set of packets; and establishing a new connection to begin receiving packets and establishing an in-frame condition after said set of packets are received in sequence determining whether said in-frame condition is valid; and terminating a current connection if said in-frame condition is not valid (if receiving bridge can not assemble the frame because the packets have been lost, the bridge will terminate the current connection and establish a new connection to restart the transmission).

9. Claims 2-3, 5, 14-15 and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Boyle as applied to claims 1 and 13 above, and further in view of Ho (USP 7170856).

As claims 2-3 and 5, Boyle fails to disclose the claimed invention. In the same field of endeavor, Ho discloses monitoring said data stream; and attaching an alarm bit in a service header of a subsequent packet if a break in said data stream is detected (Fig 4, Flags), negative justification bit and a positive justification bit in said service header to indicate whether said synchronous payload envelope includes a negative stuff byte or a positive stuff byte (Fig 4, Ref 420 and 430), recording a stuffing time difference in a service header at said ingress end; and implementing said stuffing time difference at said egress end (Fig 4, Ref 410, SRTS).

Since, the pointers for indicating negative and positive are well known in SONET and SDH. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

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invention was made to apply the indicators into header in order to indicate the negative and positive, time stamp, alarm as disclosed by Ho into Boyle. The motivation would have been to maintain byte alignment.

Allowable Subject Matter

10. Claims 6 and 18 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure such as Silverman (US 6731649), Lipp (USP 6751238), Suzuki (US 6614760) Bharucha (US 6229821), Shimelmitz (USP 6898213) and Doshi (US 5936965).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to STEVEN H.D NGUYEN whose telephone number is (571) 272-3159. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jayanti Patel can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Steven H.D Nguyen/
Primary Examiner, Art Unit 2619